

111TH CONGRESS
1ST SESSION

H. R. 1850

To amend titles V, XVIII, and XIX of the Social Security Act to promote tobacco use cessation under the Medicare Program, the Medicaid Program, and the maternal and child health program.

IN THE HOUSE OF REPRESENTATIVES

APRIL 1, 2009

Ms. DEGETTE (for herself and Mr. PLATTS) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend titles V, XVIII, and XIX of the Social Security Act to promote tobacco use cessation under the Medicare Program, the Medicaid Program, and the maternal and child health program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Quit Smoking for Life
5 Act of 2009”.

1 **SEC. 2. COVERAGE OF COUNSELING FOR CESSATION OF**
2 **TOBACCO USE UNDER THE MEDICARE PRO-**
3 **GRAM.**

4 (a) **COVERAGE.**—Section 1861(s)(2) of the Social Se-
5 curity Act (42 U.S.C. 1395x(s)(2)) is amended—

6 (1) in subparagraph (DD), by striking “and” at
7 the end;

8 (2) in subparagraph (EE), by adding “and” at
9 the end; and

10 (3) by adding at the end the following new sub-
11 paragraph:

12 “(FF) counseling for cessation of tobacco use
13 (as defined in section 1861(hhh));”.

14 (b) **SERVICES DESCRIBED.**—Section 1861 of such
15 Act (42 U.S.C. 1395x) is further amended by adding at
16 the end the following new subsection:

17 “(hhh) **COUNSELING FOR CESSATION OF TOBACCO**
18 **USE.**—(1) Subject to paragraph (2), the term ‘counseling
19 for cessation of tobacco use’ means diagnostic, therapy,
20 and counseling services for cessation of tobacco use, for
21 individuals who use tobacco products or are being treated
22 for tobacco use, furnished—

23 “(A) by or under the supervision of a physician;
24 or

25 “(B) by any other health care professional
26 who—

1 “(i) is legally authorized to furnish such
 2 services under State law (or the State regu-
 3 latory mechanism provided by State law) of the
 4 State in which the services are furnished; and

5 “(ii) is authorized to receive payment for
 6 other services under this title or is designated
 7 by the Secretary for this purpose.

8 “(2) Such term is limited to—

9 “(A) services that are included in the most cur-
 10 rent clinical practice guidelines on treating tobacco
 11 use and dependence issued by the Public Health
 12 Service; and

13 “(B) such other services that the Secretary rec-
 14 ognizes to be effective.”.

15 (c) PAYMENT; ELIMINATION OF DEDUCTIBLE.—

16 (1) PAYMENT.—Section 1833(a)(1) of such Act
 17 (42 U.S.C. 1395l(a)(1)) is amended—

18 (A) by striking “and” before “(W)”; and

19 (B) by inserting before the semicolon at
 20 the end the following: “, and (X) with respect
 21 to counseling for cessation of tobacco use (as
 22 defined in section 1861(hhh)), the amount paid
 23 shall be 80 percent of the lesser of the actual
 24 charge for the service or the amount determined

1 by a fee schedule established by the Secretary
 2 for purposes of this clause”.

3 (2) ELIMINATION OF DEDUCTIBLE.—The first
 4 sentence of section 1833(b) of such Act (42 U.S.C.
 5 1395l(b)) is amended—

6 (A) by striking “and” before “(9)”; and

7 (B) by inserting before the period the fol-
 8 lowing: “, and (10) such deductible shall not
 9 apply with respect to counseling for cessation of
 10 tobacco use (as defined in section 1861(hhh))”.

11 (d) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply to services furnished on or after
 13 January 1 of the first calendar year that begins at least
 14 6 months after the date of the enactment of this Act.

15 **SEC. 3. COVERAGE OF TOBACCO CESSATION**
 16 **PHARMACOTHERAPY UNDER THE MEDICARE**
 17 **PROGRAM.**

18 (a) INCLUSION OF TOBACCO CESSATION AGENTS AS
 19 COVERED DRUGS.—Section 1860D–2(e)(1) of the Social
 20 Security Act (42 U.S.C. 1395w–102(e)(1)) is amended—

21 (1) in subparagraph (A), by striking “or” after
 22 the semicolon at the end;

23 (2) in subparagraph (B), by striking the comma
 24 at the end and inserting “; or”; and

1 (3) by inserting after subparagraph (B) the fol-
2 lowing new subparagraph:

3 “(C) any agent approved by the Food and
4 Drug Administration for purposes of promoting,
5 and when used to promote, tobacco use ces-
6 sation that may be dispensed without a pre-
7 scription (commonly referred to as an ‘over-the-
8 counter’ drug), but only if such an agent is pre-
9 scribed by a physician (or other person author-
10 ized to prescribe under State law),”.

11 (b) ESTABLISHMENT OF CATEGORIES AND CLASSES
12 CONSISTING OF TOBACCO CESSATION AGENTS.—Section
13 1860D–4(b)(3)(C) of the Social Security Act (42 U.S.C.
14 1395w–104(b)(3)(C)) is amended by adding at the end the
15 following new clause:

16 “(iv) CATEGORIES AND CLASSES OF
17 TOBACCO CESSATION AGENTS.—There
18 shall be a therapeutic category or class of
19 covered part D drugs consisting of agents
20 approved by the Food and Drug Adminis-
21 tration for cessation of tobacco use. Such
22 category or class shall include tobacco ces-
23 sation agents described in subparagraphs
24 (A) and (C) of section 1860D–2(e)(1).”.

1 **SEC. 4. COVERAGE OF COUNSELING AND MEDICATION FOR**
2 **CESSATION OF TOBACCO USE UNDER THE**
3 **MEDICAID PROGRAM.**

4 (a) DROPPING EXCEPTION FROM MEDICAID PRE-
5 SCRIPTON DRUG COVERAGE FOR TOBACCO USE CES-
6 SATION MEDICATIONS.—

7 (1) IN GENERAL.—Section 1927(d)(2) of the
8 Social Security Act (42 U.S.C. 1396r–8(d)(2)) is
9 amended—

10 (A) by striking subparagraph (E);

11 (B) by redesignating subparagraph (F)
12 through (K) as subparagraphs (E) through (J),
13 respectively; and

14 (C) in subparagraph (F), as so redesign-
15 nated, by inserting before the period at the end
16 the following: “, other than agents approved by
17 the Food and Drug Administration for purposes
18 of promoting, and when used to promote, to-
19 bacco use cessation (regardless, for purposes of
20 this title only, of whether such agents may be
21 dispensed only upon prescription or may be dis-
22 pensed without a prescription (commonly re-
23 ferred to as an ‘over-the-counter’ drug), but
24 only if such an agent is prescribed by a physi-
25 cian (or other person authorized to prescribe
26 under State law))”.

1 (2) CONFORMING AMENDMENT.—Section
2 1860D–2(e)(2)(A) of the Social Security Act (42
3 U.S.C. 1395w–102(e)(2)(A)) is amended by striking
4 “, other than subparagraph (E) of such section (re-
5 lating to smoking cessation agents),”.

6 (b) REQUIRING COVERAGE OF TOBACCO USE CES-
7 SATION COUNSELING.—Section 1905(a)(4) of such Act
8 (42 U.S.C. 1396d(a)(4)) is amended—

9 (1) by striking “and” before “(C)”; and

10 (2) by adding at the end the following: “, and
11 (D) counseling for cessation of tobacco use (as de-
12 fined in section 1861(hhh));”.

13 (c) TREATMENT OF TOBACCO CESSATION SERVICES
14 AND MEDICATIONS AS SERVICES RELATED TO PREG-
15 NANCY.—Section 1905 of such Act is amended by adding
16 at the end the following new subsection:

17 “(y) Services described in subsection (a)(4)(D) shall
18 be treated as services related to pregnancy with respect
19 to women during pregnancy (and during the 60-day period
20 beginning on the last day of the pregnancy).”.

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to items and services furnished on
23 or after January 1 of the first calendar year that begins
24 at least 6 months after the date of the enactment of this
25 Act.

1 **SEC. 5. PROMOTING CESSATION OF TOBACCO USE UNDER**
2 **THE MATERNAL AND CHILD HEALTH PRO-**
3 **GRAM.**

4 (a) QUALITY MATERNAL AND CHILD HEALTH SERV-
5 ICES INCLUDES TOBACCO USE CESSATION COUNSELING
6 AND MEDICATIONS.—Section 501 of the Social Security
7 Act (42 U.S.C. 701) is amended by adding at the end the
8 following new subsection:

9 “(d) For purposes of this title, counseling for ces-
10 sation of tobacco use (as defined in section 1861(hhh)),
11 drugs and biologicals used to promote tobacco use ces-
12 sation (regardless of whether such drugs or biologicals
13 may be dispensed only upon prescription or may be dis-
14 pensed without a prescription (commonly referred to as
15 an ‘over-the-counter’ drug), but only if such a drug or bio-
16 logical is prescribed by a physician (or other person au-
17 thorized to prescribe under State law)), and the inclusion
18 of antitobacco messages in health promotion counseling
19 shall be considered to be part of quality maternal and child
20 health services.”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 subsection (a) shall take effect on the date of the enact-
23 ment of this Act.

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